



February 13, 2007

HOUSE BILL No. 1100

DIGEST OF HB 1100 (Updated February 8, 2007 2:06 pm - DI 96)

Citations Affected: IC 8-3; noncode.

Synopsis: Secure rail facilities. Requires a railroad to submit a certain annual risk assessment (assessment) and certain annual community protection plans (plans) to the department of homeland security and the department of transportation, and specifies certain information to be contained in the assessment and plan. Prohibits a railroad from disciplining an employee who believes an assessment or a plan to be in error and has made a report of such belief to the department of homeland security or the department of transportation. Requires a railroad to provide security threat training to its employees and to employees of contractors and subcontractors of the railroad. Requires a contractor or a subcontractor of a railroad to secure a limited criminal history of a potential employee.

Effective: July 1, 2007.

Kersey, Cheney, Tyler

January 8, 2007, read first time and referred to Committee on Labor and Employment.
February 12, 2007, amended, reported — Do Pass.

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HB 1100—LS 6816/DI 103+



February 13, 2007

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

HOUSE BILL No. 1100

A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 8-3-23 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2007]:

4 **Chapter 23. Local Rail Safety**

5 **Sec. 1. Not later than January 15 of each year, a railroad shall**
6 **submit a risk assessment of the railroad's facilities to the**
7 **department of homeland security and the Indiana department of**
8 **transportation. A risk assessment submitted under this section**
9 **must include, but is not limited to, the following:**

10 (1) **A description of the facilities of the railroad and the**
11 **functions of the facilities.**

12 (2) **The types of cargo transported through the facilities**
13 **during the immediately preceding calendar year, including**
14 **the approximate quantity of hazardous materials or oil**
15 **subject to Chapter 1 of Subtitle B of Title 49 of the Code of**
16 **Federal Regulations.**

17 (3) **The extent to which hazardous materials or oil is stored in**

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the facilities, including the location and approximate quantity of the hazardous materials or oil.

(4) The location of a rail facility where hazardous materials or oil is transported or stored, if the rail facility is located within a fifteen (15) mile radius of a school, hospital, nursing home, utility (as defined in IC 8-1-2-1(g)), fire station, police station, or county sheriff's headquarters.

(5) The railroad's security plan, including:

(A) practices of the railroad designed to prevent acts of sabotage or terrorism or other crimes on rail facilities;

(B) security training provided to the railroad's employees;

(C) emergency response procedures for acts of sabotage or terrorism or other crimes; and

(D) communication procedures with state and local officials, law enforcement officers, and emergency responders in the event of an act of sabotage or terrorism or any other crime.

The information contained in a risk assessment submitted under this section to the department of homeland security and the Indiana department of transportation is confidential.

Sec. 2. (a) Not later than July 15 of each year, a railroad shall develop a community protection plan to protect rail facilities and critical rail infrastructure from acts of sabotage or terrorism or other crimes.

(b) A community protection plan adopted under subsection (a) must include, but is not limited to, the following:

(1) Provision for the security of critical rail infrastructure, including points of vulnerability of the rail system through which hazardous materials or oil is transported. Points of vulnerability include rail yards, bridges, tunnels, and signal systems.

(2) Description of the railroad's methods for protecting critical rail infrastructure from acts of sabotage or terrorism or other crimes.

(3) Description of the training provided by the railroad to the railroad's employees to enable the railroad's employees to identify and respond to security threats, including acts of sabotage or terrorism or other crimes.

(4) Description of the emergency response procedures of the railroad in dealing with acts of sabotage or terrorism or other crimes.

(5) Description of the communication procedures with state

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and local officials, law enforcement officers, and emergency responders in the event of an act of sabotage or terrorism or any other crime.

(c) This subsection applies to a rail facility described in section 1(4) of this chapter. In addition to the requirements set forth in subsection (b), the community protection plan adopted by the rail facility must include, but is not limited to, the following:

(1) Provision for regular inspection of the rail facility by personnel trained by the railroad to determine the condition of the facility and its vulnerability to acts of sabotage or terrorism or other crimes.

(2) Provision for storage of hazardous materials or oil in secure facilities. For purposes of this subdivision, a railroad right-of-way is not a secure facility.

(3) Setting forth procedures to ensure unattended locomotive equipment is locked against unauthorized entrance.

(4) Prescription of methods by which the cabs of occupied locomotives may be secured against unauthorized entry.

(5) Provision for security for remote control locomotives to prevent unauthorized use.

(d) Not more than fifteen (15) days after developing a community protection plan, a railroad shall submit a copy of the railroad's community protection plan to the department of homeland security and the Indiana department of transportation. If a railroad has failed to submit a community protection plan by August 1 in a year, the department of homeland security and the Indiana department of transportation shall contact the railroad and require that the community protection plan be submitted to the department of homeland security and the Indiana department of transportation.

(e) The Indiana department of transportation may modify a community protection plan to comply with subsections (b) and (c) of this section.

Sec. 3. (a) An employee of a railroad who believes that a risk assessment as prepared under section 1 of this chapter or a community protection plan adopted under section 2 of this chapter has been prepared in error by the railroad may report the belief of the employee to the department of homeland security or to the Indiana department of transportation for an investigation of the contents of the risk assessment or the community protection plan.

(b) For having made a report under subsection (a), the employee making the report may not:

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- (1) be dismissed from employment;
- (2) have salary increases or employment related benefits withheld;
- (3) be transferred or reassigned;
- (4) be denied a promotion the employee otherwise would have received; or
- (5) be demoted;

by a railroad, contractor, or subcontractor of the railroad that is investigated by the department of homeland security or the Indiana department of transportation as a result of a report filed under subsection (a).

(c) The department of homeland security or the Indiana department of transportation shall investigate a risk assessment or a community protection plan that is the subject of a report made under subsection (a). If, after investigation, the department of homeland security or the Indiana department of transportation finds there is validity to the report, the department of homeland security or the Indiana department of transportation may require the railroad to submit a corrected risk assessment or community protection plan.

(d) A railroad, a contractor, or a subcontractor of the railroad that knowingly or intentionally violates subsection (b) commits a Class A misdemeanor.

Sec. 4. A railroad shall provide ongoing training to employees of the railroad and to contractors and subcontractors of the railroad to enable the employees to identify and respond to security threats, including acts of sabotage or terrorism or other crimes.

Sec. 5. (a) A contractor or subcontractor of the railroad shall secure a limited criminal history (as defined in IC 10-13-3-11) before the employment of an individual who will work on a contract for a railroad commences.

(b) A railroad is authorized to determine whether an employee of a contractor or subcontractor of a railroad may work on a project for the railroad, based on convictions disclosed by the limited criminal history.

SECTION 2. [EFFECTIVE JULY 1, 2007] Notwithstanding IC 8-3-23-2, as added by this act, a rail operator shall adopt a community protection plan as described in IC 8-3-23-2, as added by this act, not later than July 15, 2008.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Labor and Employment, to which was referred House Bill 1100, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 5 through 17, begin a new paragraph and insert:

"Sec. 1. Not later than January 15 of each year, a railroad shall submit a risk assessment of the railroad's facilities to the department of homeland security and the Indiana department of transportation. A risk assessment submitted under this section must include, but is not limited to, the following:

(1) A description of the facilities of the railroad and the functions of the facilities.

(2) The types of cargo transported through the facilities during the immediately preceding calendar year, including the approximate quantity of hazardous materials or oil subject to Chapter 1 of Subtitle B of Title 49 of the Code of Federal Regulations.

(3) The extent to which hazardous materials or oil is stored in the facilities, including the location and approximate quantity of the hazardous materials or oil.

(4) The location of a rail facility where hazardous materials or oil is transported or stored, if the rail facility is located within a fifteen (15) mile radius of a school, hospital, nursing home, utility (as defined in IC 8-1-2-1(g)), fire station, police station, or county sheriff's headquarters.

(5) The railroad's security plan, including:

(A) practices of the railroad designed to prevent acts of sabotage or terrorism or other crimes on rail facilities;

(B) security training provided to the railroad's employees;

(C) emergency response procedures for acts of sabotage or terrorism or other crimes; and

(D) communication procedures with state and local officials, law enforcement officers, and emergency responders in the event of an act of sabotage or terrorism or any other crime.

The information contained in a risk assessment submitted under this section to the department of homeland security and the Indiana department of transportation is confidential.

Sec. 2. (a) Not later than July 15 of each year, a railroad shall develop a community protection plan to protect rail facilities and critical rail infrastructure from acts of sabotage or terrorism or

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other crimes.

(b) A community protection plan adopted under subsection (a) must include, but is not limited to, the following:

(1) Provision for the security of critical rail infrastructure, including points of vulnerability of the rail system through which hazardous materials or oil is transported. Points of vulnerability include rail yards, bridges, tunnels, and signal systems.

(2) Description of the railroad's methods for protecting critical rail infrastructure from acts of sabotage or terrorism or other crimes.

(3) Description of the training provided by the railroad to the railroad's employees to enable the railroad's employees to identify and respond to security threats, including acts of sabotage or terrorism or other crimes.

(4) Description of the emergency response procedures of the railroad in dealing with acts of sabotage or terrorism or other crimes.

(5) Description of the communication procedures with state and local officials, law enforcement officers, and emergency responders in the event of an act of sabotage or terrorism or any other crime.

(c) This subsection applies to a rail facility described in section 1(4) of this chapter. In addition to the requirements set forth in subsection (b), the community protection plan adopted by the rail facility must include, but is not limited to, the following:

(1) Provision for regular inspection of the rail facility by personnel trained by the railroad to determine the condition of the facility and its vulnerability to acts of sabotage or terrorism or other crimes.

(2) Provision for storage of hazardous materials or oil in secure facilities. For purposes of this subdivision, a railroad right-of-way is not a secure facility.

(3) Setting forth procedures to ensure unattended locomotive equipment is locked against unauthorized entrance.

(4) Prescription of methods by which the cabs of occupied locomotives may be secured against unauthorized entry.

(5) Provision for security for remote control locomotives to prevent unauthorized use.

(d) Not more than fifteen (15) days after developing a community protection plan, a railroad shall submit a copy of the railroad's community protection plan to the department of

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homeland security and the Indiana department of transportation. If a railroad has failed to submit a community protection plan by August 1 in a year, the department of homeland security and the Indiana department of transportation shall contact the railroad and require that the community protection plan be submitted to the department of homeland security and the Indiana department of transportation.

(e) The Indiana department of transportation may modify a community protection plan to comply with subsections (b) and (c) of this section.

Sec. 3. (a) An employee of a railroad who believes that a risk assessment as prepared under section 1 of this chapter or a community protection plan adopted under section 2 of this chapter has been prepared in error by the railroad may report the belief of the employee to the department of homeland security or to the Indiana department of transportation for an investigation of the contents of the risk assessment or the community protection plan.

(b) For having made a report under subsection (a), the employee making the report may not:

- (1) be dismissed from employment;
- (2) have salary increases or employment related benefits withheld;
- (3) be transferred or reassigned;
- (4) be denied a promotion the employee otherwise would have received; or
- (5) be demoted;

by a railroad, contractor, or subcontractor of the railroad that is investigated by the department of homeland security or the Indiana department of transportation as a result of a report filed under subsection (a).

(c) The department of homeland security or the Indiana department of transportation shall investigate a risk assessment or a community protection plan that is the subject of a report made under subsection (a). If, after investigation, the department of homeland security or the Indiana department of transportation finds there is validity to the report, the department of homeland security or the Indiana department of transportation may require the railroad to submit a corrected risk assessment or community protection plan.

(d) A railroad, a contractor, or a subcontractor of the railroad that knowingly or intentionally violates subsection (b) commits a Class A misdemeanor.

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Sec. 4. A railroad shall provide ongoing training to employees of the railroad and to contractors and subcontractors of the railroad to enable the employees to identify and respond to security threats, including acts of sabotage or terrorism or other crimes.

Sec. 5. (a) A contractor or subcontractor of the railroad shall secure a limited criminal history (as defined in IC 10-13-3-11) before the employment of an individual who will work on a contract for a railroad commences.

(b) A railroad is authorized to determine whether an employee of a contractor or subcontractor of a railroad may work on a project for the railroad, based on convictions disclosed by the limited criminal history."

Delete page 2.

Page 3, delete lines 1 through 37.

and when so amended that said bill do pass.

(Reference is to HB 1100 as introduced.)

CHENEY, Chair

Committee Vote: yeas 6, nays 5.

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